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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,320	04/19/2001	Peter B. Everdell	102689-86	1320
21125	7590	09/08/2004	EXAMINER	
NUTTER MCCLENNEN & FISH LLP WORLD TRADE CENTER WEST 155 SEAPORT BOULEVARD BOSTON, MA 02210-2604			COULTER, KENNETH R	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/838,320	EVERDELL ET AL.	
	Examiner	Art Unit	
	Kenneth R Coulter	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Specification***

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

2. The disclosure is objected to because of the following informalities:

a "CROSS-REFERENCE TO RELATED APPLICATIONS" heading should be inserted in the specification (p. 1, line 1 of the specification);

U.S. Serial Number information should be inserted in the underlined blank area (p. 1, line 1 of the specification);

U.S. Patent number information corresponding to U.S. Serial numbers should be inserted in the CROSS-REFERENCE TO RELATED APPLICATIONS Section (pages 1 and 2 of the specification).

Appropriate correction is required.

### ***Claim Objections***

3. Claim 16 is objected to because of the following informalities:

claim 16 is dependent upon claim 16.

Appropriate correction is required.

***Information Disclosure Statement***

4. The Examiner requests additional copies of the **non U.S. Patent references** submitted in an IDS on 7/9/01, since many of the copies submitted are unreadable.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 – 34 are rejected under 35 U.S.C. 102(e) as being disclosed by Ferguson et al. (U.S. Pat. Pub. No. 2002/0059424) (Flow Scheduling for Network Application Apparatus).

- 6.1 Regarding claim 1, Ferguson discloses a telecommunications network device, comprising:

a plurality of distributed processors (Abstract; Figs. 2, 4);

a data path coupled to the plurality of distributed processors (Abstract; Figs. 2,

4); and

a switched control path coupled to the plurality of distributed processors  
(Abstract; Figs. 2, 4; p. 5, paragraph 5).

6.2 Per claim 2, Ferguson teaches the telecommunications network device of claim 1, wherein the switched control path is a first switched control path and further comprising:

a second switched control path coupled to the plurality of distributed processors  
(Fig. 4).

6.3 Regarding claim 3, Ferguson discloses the telecommunications network device of claim 2, wherein the first and second switched control paths comprise redundant switched control paths (p. 5, paragraph 45).

6.4 Per claim 4, Ferguson teaches the telecommunications network device of claim 1, wherein the switched control path comprises an Ethernet switch (p. 5, paragraph 45; p. 8, paragraph 72).

6.5 Regarding claim 5, Ferguson discloses the telecommunications network device of claim 4, wherein the Ethernet switch comprises: an Ethernet switch subsystem; and a plurality of physical Ethernet port chips coupled to the Ethernet switch subsystem, wherein each of the plurality of distributed processors is coupled with at least one of the plurality of physical Ethernet port chips (p. 5, paragraph 45; p. 8, paragraph 72).

6.6 Per claim 6, Ferguson teaches the telecommunications network device of claim 5, wherein the plurality of physical Ethernet port chips is a first plurality of physical Ethernet port chips and the Ethernet switch subsystem comprises:

- an Ethernet switch chip (p. 5, paragraph 45; p. 8, paragraph 72); and
- a second plurality of physical Ethernet port chips coupled with the Ethernet switch chip, wherein the second plurality of Ethernet port chips are further coupled with the first plurality of physical Ethernet port chips (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72).

6.7 Regarding claim 7, Ferguson discloses the telecommunications network device of claim 1, wherein the switched control path comprises a proprietary bus (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72).

6.8 Per claim 8, Ferguson teaches the telecommunications network device of claim 1, wherein the switched control path comprises an Asynchronous Transfer Mode network (Fig. 6C; pp. 4-5, paragraph 52).

6.9 Regarding claim 9, Ferguson does not explicitly disclose the telecommunications network device of claim 1, wherein the switched control path comprises a Multi-Protocol Label Switching network.

The Examiner hereby takes official notice that an MPLS network is commonly used as a switched control path. Ferguson discloses a switched control path (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72). Therefore it would have been inherent to implement a MPLS network in Ferguson.

6.10 Per claim 10, Ferguson teaches the telecommunications network device of claim 1, further comprising: a plurality of cards, wherein at least one of the plurality of processors is mounted on each of the plurality of cards (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72).

6.11 Regarding claim 11, Ferguson discloses the telecommunications network device of claim 1, wherein at least a portion of the plurality of distributed processors are coupled to the switched control path through multiple independent ports (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72).

6.12 Per claim 12, Ferguson teaches the telecommunications network device of claim 1, further comprising: an external port coupled with the switched control plane (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72).

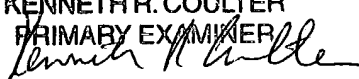
6.13 Regarding claims 13 – 34, the rejection of claims 1 – 12 under 35 USC 102(e) (paragraphs 6.1 – 6.12 above) applies fully.



7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R Coulter whose telephone number is 703 305-8447. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KENNETH R. COULTER  
PRIMARY EXAMINER  


krc